

PRICE-ANDERSON AMENDMENTS ACT OF 1987

JULY 22, 1987 —Ordered to be printed

Mr. ROE, from the Committee on Science, Space, and Technology,
submitted the following

REPORT

[To accompany H.R. 1414]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments (referenced to the pages and lines of the introduced bill) are as follows:

1. Page 35, after the line 24, insert the following:

SEC. 18. Unless amended by legislation hereafter enacted, the provisions of this Act shall continue with full

force and effect for activities undertaken under contract with the Department of Energy until August 1, 1999.

2. Page 7, line 18, before the period, insert a comma and the following:

and who is not already covered by financial protection required, or an indemnification agreement issued, by the Commission.

3. Page 9, after line 2 insert a new paragraph (redesignating the succeeding paragraphs accordingly) as follows:

(3) For any demonstration reactor under the control of the Secretary and licensed under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section

4. Page 10, line 20, strike "and" and all that follows through "safety" on line 23, and insert in lieu thereof "in such concentrations as the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, may prescribe to protect the public health and safety".

5. Page 9, line 1, and page 13, line 3, strike "excluding" and insert in lieu thereof "including"; and on page 17, line 23, strike "amended" and all that follows down through the period on line 24, and insert the following;

amended—

(1) by striking "August 1, 1987" each place it appears and inserting "August 1, 1997"; and

(2) by striking "excluding" in paragraph (1) and inserting in lieu thereof "including the".

6. Page 15, after line 18, insert a new paragraph as follows:

(7) The funds provided by financial protection and/or indemnity pursuant to this section, and where appropriate, the funds provided as a result of the issuance of obligations pursuant to this section, shall be the exclusive source of payments for public liability.

7. Page 10, line 25 strike "d."; and page 31, beginning on line 1, strike "the second place is appears" and insert "in the matter immediately following subparagraph (F) as added by section 10(b)(3) of the bill".

I. SUMMARY OF COMMITTEE ACTIONS

The Committee on Science, Space, and Technology adopted 7 amendments to H.R. 1414, the "Price-Anderson Amendments Act of 1987," as introduced. All of the amendments concern Department of Energy contractors who may be indemnified by the Secretary of Energy for liability resulting in the conduct of nuclear research and development. One amendment also deals with university research reactors.

For Department of Energy (DOE) contractors, the Price-Anderson Act can be thought of, in part, as an insurance policy issued by the

government to its contractors covering accidents occurring as a result of their conduct of nuclear-energy-related work for the government. It is more than insurance policy in that it limits the amount of liability of its contractors, and, for serious nuclear accidents, requires the contractors to waive many of the legal defenses in state law that they may have to any claims for damages under state law.

There are two purposes of the Price-Anderson Act relative to DOE contractors. The first is to remove a deterrent to private sector participation in the government's nuclear energy programs. This deterrent is presented by the threat of potentially large liability claims, should a nuclear accident occur at a contractor-operated facility, or in other contractor-operations. The second purpose is to provide the public with an assured and timely source of funds to pay for damages resulting from a nuclear accident. The Committee reaffirms the continued validity and importance of these purposes.

The report of the Committee on H.R. 1414 is consistent with the Committee's report on H.R. 3653 on August 6, 1986 (H. Rpt. 99-636, Part 2). H.R. 3653 was not enacted before the 99th Congress adjourned. The three House Committees, however, agreed upon a compromise bill, H.R. 5650, which formed the basis of H.R. 1414.

The Committee's seven amendments to H.R. 1414 extend the Secretary of Energy's authority to issue Price-Anderson coverage for 12 years; allow the Secretary not to insure contractors already insured by the Nuclear Regulatory Commission (NRC); require that DOE insure its demonstration reactors; clarify the fact that DOE can cover legal costs in administering and settling claims for damages; clarify the fact that NRC can cover such legal costs relative to claims involving research reactors; clarify the definition of transuranic waste; and make the government the sole source of payments of liability.

II. PURPOSE OF THE BILL

The purpose of H.R. 1414, the "Price-Anderson Amendments Act of 1987," is to reauthorize the Price-Anderson Act, with amendments. The Price-Anderson Act is codified as section 170 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2210). The Price-Anderson Act provides a unique insurance protection system for operators of nuclear power plants by creating industry-wide liability for a serious accident at any nuclear power plant; it insures nuclear contractors of the Department of Energy, owners of university research reactors, and other persons operating reactors; and, it limits the liability of power plant owners, university research reactor owners, DOE contractors and others, while providing a congressional commitment to provide full and prompt compensation of damages beyond the liability limit.

For DOE contractors, H.R. 1414 increases by about a factor of 14 the amount of insurance coverage and the corresponding liability limit; to wit, from \$500 million to a varying level, currently \$7.027 billion. The actual level of contractor protection and liability limitation will remain equal to the level set for commercial power plant licensees.

For nonprofit educational institutions, H.R. 1414 retains, with one exception, existing law for another ten-year period, which will expire August 1, 1997. Owners of university research reactors would be insured by the Nuclear Regulatory Commission for damages to the public in excess of \$250,000, up to and including the \$500 million maximum liability under the law. The Committee's amendment clarifies conflicting provisions of existing law by specifically including the cost of administering claims and other legal costs in the indemnity provided by the Act.

Operators of other (non-university) research reactors will continue to be protected by \$500 million of NRC (i.e., government) indemnification. For example, the National Bureau of Standards test reactor in Gaithersburg, Maryland is protected by the \$500 million NRC indemnity. No private insurance is required for federal agency reactors, so the \$500 million indemnity is the total coverage for this reactor.

All reactor licensees other than large, commercial power reactor licensees, non-profit educational institutions, or federal agency licensees will continue to be required to provide private insurance in amounts established by regulation based on the type, size, and location of the reactor and other factors. The \$500 million maximum government indemnity for these other licensees will be reduced by the amount of private insurance required in excess of \$60 million. So, the public protection and liability limit relative to these licensees is between \$500 million and \$560 million, depending upon the amount of required private insurance up to the \$60 million level. If private insurance is required in excess of \$60 million, then the liability limit remains at \$560 million, and the \$500 million government indemnity is reduced by the amount of such private insurance in excess of \$60 million. Liability will, therefore, continue to be limited to from \$500 to \$560 million, depending on the level of private insurance required by the NRC.

This federal insurance program saves the government money by self-insuring, it enables the government to find private sector companies willing to help in the operation of DOE's nuclear facilities, and, perhaps most importantly, it provides a mechanism for prompt compensation to the public in the event of an accident.

III. COMMITTEE ACTIONS

H.R. 1414 was reported from the Committee on Interior and Insular Affairs on May 21, 1987, and on the same day was sequentially referred to the Committee on Science, Space, and Technology for a period ending not later than July 20, 1987. This referral was subsequently extended to July 22, 1987.

The Subcommittee on Energy Research and Development, chaired by the Hon. Marilyn Lloyd, held a hearing on the bill on June 17, 1987. A markup was subsequently held on June 24, 1987, and the bill, with ten amendments, was reported to the Committee.

The Committee on Science, Space, and Technology held its markup on July 22, 1987, and ordered the legislation reported by voice vote, with amendments, to the House of Representatives.

IV. BACKGROUND AND NEED FOR THE LEGISLATION

The Price-Anderson Act removes a deterrent to private sector participation in the government's nuclear energy programs, to universities in operating low-power research reactors and to others owning research and test reactors. The Price-Anderson Act also provides the public with an assured, timely source of funds in the unlikely event of a nuclear accident. Without the Price-Anderson Act insurance coverage, contractors at all levels might refuse to continue doing business with the government, and universities and others might close down their research reactors.

The DOE's prime contractors are operating in a kind of partnership with the government. They operate the facilities owned by the government under close supervision of the DOE. Thus, the Price-Anderson Act enables the government to insure its contractors against nuclear hazards, thus reducing the costs of its nuclear programs. Additionally, it is unlikely that sufficient amounts of private insurance could be procured by the government's contractors to enable them to engage in such activities, and even if private insurance could be obtained, the additional costs of such coverage would be passed on to the government through the contracts.

Over the past 30 years, the total amount in claims paid by the government under Price-Anderson is about \$1,500,000. The total expenditures under the DOE contracts during this period amounted to \$124 billion; so claims correspond to only 1/1000 of one percent of the expenditures.

The Price-Anderson Act coverage of nonprofit educational institutions, which are licensed to operate research reactors, is an important method by which the federal government encourages universities to maintain educational programs in nuclear science and engineering. With the increasing regulatory burden imposed on the universities and the recent closing of several of their reactors, it has become apparent that significant modifications of their Price-Anderson Act protection system could result in the shutdown of additional reactors and a significant loss of the Nation's nuclear science and engineering educational capabilities. Additionally, it appears inappropriate to change the level of protection which is more than adequate for these reactors since the potential damages to the public from any accident at these facilities are minimal due to their very low power density.

The Price-Anderson Act has been cited as a model for bringing order and predictability to societal risk issues where maximum public protection and high potential liabilities can result. These issues include vaccine inoculations, asbestos removal, toxic chemical clean-up, aircraft safety, et al. The difficulties encountered in determining and ultimately paying the damages associated with the accident at Bhopal, India serve to demonstrate the value of a Price-Anderson Act system for prompt payment of public damages.

The Price-Anderson Act has been fulfilling its intended purposes of providing prompt financial protection to the public and removing a deterrent to private sector participation in the nuclear energy field. It should, therefore, be retained to continue fulfilling its purposes.

V. EXPLANATION OF COMMITTEE AMENDMENTS

The Committee on Science, Space, and Technology adopted 7 amendments to H.R. 1414, as introduced.

FIRST AMENDMENT—PERMANENT DOE AUTHORITY

The first amendment extends the Secretary of Energy's authority to issue indemnity agreements to DOE contractors under the Act for an additional two years, if at the end of the regular ten year expiration period no renewal legislation has been enacted. The ten-year period in the bill would continue past policies of periodically allowing the Act to expire so that its provisions can be reconsidered by Congress. The Committee believes such reconsideration is appropriate, but observes that the DOE contractors' situation is different from the NRC's licensees. The DOE's contracts with its contractors expire every five years and almost every year some contracts expire and require renewal. On the other hand, NRC licensees are issued the coverage for the life of their facility so a ten-year expiration does not jeopardize public coverage. If DOE does not have Price-Anderson Act authority when the new contracts are signed, the contractor and the public may be left substantially unprotected.

The Committee recognizes that the entire Price-Anderson Act will be reviewed when the provisions expire at the end of the ten year period. If, however, Congress is late in enacting the renewal legislation, the Committee amendment will allow the provisions relating to DOE authority to continue in effect for two more years. This should give Congress enough time to act on the renewal legislation.

Because the Department of Energy needs Price-Anderson Act coverage regardless of what happens with the coverage relative to the private sector power plants, the Committee believes it is appropriate that the authority to enter into indemnity agreements with contractors be extended for this additional two-year period.

SECOND AMENDMENT—RESOLVING CONTRADICTION

The second amendment resolves a contradiction of requirements in the bill for both agencies to indemnify certain contractors of the Department of Energy. The Committee intends that this amendment would allow the Department of Energy not to provide government indemnity to those persons who are in the commercial sector and are already covered by Price-Anderson through the Nuclear Regulatory Commission license requirements for Price-Anderson Act coverage. If the Department of Energy believes that a contractor is not fully indemnified by the Commission for its activities for the Department of Energy, the requirement would remain that the Department of Energy indemnify that contractor for his work for his work for the Department of Energy.

THIRD AMENDMENT—DOE FACILITIES INDEMNIFIED BY DOE

The third amendment requires that DOE's demonstration facilities be covered under Price-Anderson through the Department of Energy and not the Nuclear Regulatory Commission. The Commit-

tee observes that certain demonstration reactors which provide electricity to the commercial utility grid must be licensed by the Nuclear Regulatory Commission pursuant to section 202 of the Energy Reorganization Act of 1974. The Committee also observes that the Act requires the Commission to indemnify its licensees, as well as requiring DOE to indemnify its contractors. These dual requirements create a potential conflict which could lead to less than the full public protection intended under the Act, and to government liability for accidents at commercial plants.

For a large demonstration power reactor operated by a DOE contractor, the Commission under section 170a. is required to indemnify the licensee, who would be DOE's contractor in this circumstance. Under the bill, this indemnity would be limited to \$500 million. This is far short of the protection intended by the Committees. On the other hand, if DOE were to indemnify the contractor, the aggregate public liability and the indemnity would be limited to the \$7 billion provided under the Act for commercial power reactors. Thus, if the Department of Energy issues the coverage under Price-Anderson or its contractor, the public is better protected.

Additionally, should the Commission require financial protection of the Department of Energy under Section 170a., and in the absence of this amendment, then the Department of Energy would be required to pay for commercial insurance and would be in the pool created by all of the commercial power plants licensees. This means that the government would thus be subject to a \$63 million assessment for an accident at any commercial power reactor. The Committee does not believe that this is appropriate.

Under the provisions adopted by the Committee, the Department of Energy would be the sole agency to provide the Price-Anderson Act coverage for its demonstration reactors. For the provision to apply, the reactors would have to be under the control of the Secretary. The provision is not intended to cover demonstration reactors that are turned over to the commercial sector and are solely the responsibility of the commercial owner and under the sole regulatory control of the Nuclear Regulatory Commission. This, reactors such as the Fort St. Vrain gas reactor operated by Public Service of Colorado would not be included under the purview of this provision.

FOURTH AMENDMENT—TRU DEFINITION

The fourth amendment adopted by the Committee modifies the definition of transuranic waste included in the bill. The term transuranic waste is used in the section of the bill dealing with nuclear waste activities and unlimited liability. The definition, therefore, has application to that part of the bill.

The Committee amendment specifies that transuranic waste means materials contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, that are in such concentrations as the Nuclear Regulatory Commission or the Department of Energy may prescribe to protect the public health and safety. The amendment simply eliminates the specified concentration limit of 10 nanocuries per gram of transuranic elements and specifies that the NRC or

the DOE, as appropriate, may prescribe the concentration limit to protect the public health and safety.

The Committee observes that most transuranic waste is produced under contract to the Secretary of Energy. The Nuclear Regulatory Commission does have regulatory jurisdiction over small amounts of transuranic waste produced in the private sector, but for the most part, the Secretary of Energy regulates this waste for the Department of Energy. The Committee, therefore, believes it is appropriate for the Commission and the Secretary to set the appropriate concentration limit to define transuranic waste. The committee expects that these limits would, absent special circumstances, be the same for both the NRC and DOE.

The Committee observes that this definition is important to the determination for unlimited liability under this bill for nuclear waste activities. If an accident were to occur with trace quantities of transuranic waste among much larger releases of other elements, and if accident damages exceeded the aggregate liability limit of \$7 billion, then without a concentration limit set for transuranic waste, unlimited liability could obtain through the circumstances in the bill because of the presence of this trace quantity of transuranic waste. The Committee does not intend that such an accident be included under the special provisions for nuclear waste liability coverage. The special provisions dealing with unlimited liability for nuclear waste would be applicable only when transuranic elements are released in such significant concentrations as to be an important factor in the damages from the nuclear incident.

FIFTH AMENDMENT—INCLUDES LEGAL COSTS

The fifth amendment approved by the Committee clarifies existing law that DOE can indemnify its contractors for the administrative and legal costs involved in settling and defending suits for damage under the Act, and that NRC may also provide such coverage relative to university research reactors. The Committee believes it is fully appropriate for the government to include these costs in the insurance provided by the Price-Anderson system because the DOE contractors are conducting a service for the government. Also, universities are as incapable of assuming these contingent liabilities as they are in making payments for the larger damage claims. If it were otherwise, the government could be faced with an impediment to prompt payment of public damages and with the possibility that the government and universities could be handicapped in defending themselves against frivolous or unmeritorious claims for compensation.

The provisions of current law on the inclusion of these costs is internally inconsistent, but the Department of Energy has interpreted them consistent with the position taken in this amendment. The introduced bill would exclude all of these costs as part of the Price-Anderson Act indemnity coverage. Since the level of protection of the public for potentially serious accidents is greatly increased by the bill, and since the Congress is more strongly committed to full and prompt compensation in this legislation, the Committee can discern no reason why these costs should not be in-

cluded for contractors of the Department of Energy and for universities operating research reactors.

SIXTH AMENDMENT—SOURCE OF LIABILITY PAYMENTS

The sixth amendment adopted by the Committee requires that the government indemnity to its contractors be the sole source of funds for the payment of liability under the Act. This amendment is necessary to insure that contractors are not forced into involuntary bankruptcy by having their assets to pay public liability prior to the official appropriation of funds to satisfy the government indemnity. This result would serve no good purpose, and could complicate and delay the payment of public compensation.

Under existing law, the contractors faced such a contingency. However, at \$500 million, the contingency would not necessarily have driven contractors into bankruptcy. At the \$7 billion liability limit established in the bill, the contractors could be driven into bankruptcy should the government not be prompt in its indemnity of payment. The Committee believes that it is unreasonable to expect the contractor to shoulder this potential liability in the Price-Anderson system.

SEVENTH AMENDMENT—TECHNICAL CORRECTIONS

The seventh amendment adopted by the Committee makes technical corrections in the bill. The first such correction clarifies that the term "nuclear waste activities" is defined for purposes of the whole Price-Anderson Act and not just the section dealing with DOE contractors. The second technical correction clarifies the legislative language by referring to the provision of the Price-Anderson Act as modified by the bill.

VI. EXPLANATION OF THE BILL, AS AMENDED

Sections 2 and 3 deal with the authority of the Nuclear Regulatory Commission to require financial protection and issue an indemnity under the Price-Anderson system for its commercial licensees. Since these matters are not within the jurisdiction of the Committee on Science, Space, and Technology, no explanation of these provisions is provided.

Section 4 of the bill amends subsection 170 d. of the Atomic Energy Act of 1954 (section 170 is the Price-Anderson Act) dealing with the authority of the Department of Energy to indemnify its contractors engaged in nuclear activities.

MANDATORY COVERAGE

New paragraph d.(1)(A) mandates that the Secretary cover its contractors under the Price-Anderson indemnification system when there is a risk of creating "public liability." Essentially, such coverage would be mandated when there is a possible risk of causing public damages from a release of radioactive materials; e.g., when there is a nuclear accident at a contractor-operated facility.

This authority and requirement is effective for another 10 year period, i.e., until August 1, 1997, subject to a two-year extension by section 18 of the bill should Congress be unable to act on renewal legislation in a timely fashion. The additional two years of author-

ity will enable the DOE to avoid lapses in coverage due to expiration of its agreements with its contractors at the end of the regular ten-year period.

Present law is permissive; that is, it does not require the Department of Energy to cover its contractors under the Price-Anderson Act system. The DOE has used its discretion to mandate Price-Anderson Act coverage only if the DOE contracting officer determines that the risk of loss in the event of an accident exceeds \$60 million.

The Committee believes that the public would be maximally protected if Price-Anderson Act coverage applied to all contractors who may be involved in a possible nuclear accident. The DOE may be faced with an unnecessary conflict of interest in having to decide if accident damages could exceed \$60 million while at the same time trying to convince public representatives that an activity does not run the risk of significant accident consequences. Additionally, should DOE miscalculate the risk of loss, the public could be left unprotected for damages in excess of the \$60 million.

The Committee does not intend to change the provisions of DOE's procurement regulations relative to the Price-Anderson Act by its shift from permissive to mandatory coverage of contractors. The Committee specifically endorses the limitations found in Section 9-50.704-6, *Nuclear Hazards Indemnity*, of the procurement regulations of the Department of Energy. The Committee's only intent is to mandate that Price-Anderson coverage be extended whenever there is a risk of such public liability.

UMBRELLA COVERAGE

By mandating that the Secretary enter into such agreements of indemnification with all contractors, the Committee does not intend to change the Act relative to the existing provisions providing coverage to all subcontractors through the "umbrella coverage" of the DOE's agreement with its prime contractor. The Committee intends that DOE continue to use this umbrella coverage to insure its subcontractors without the unnecessary complication of directly contracting with those subcontractors for coverage.

SCOPE OF COVERAGE

The Committee has no intent to change the scope of the indemnity in the existing Act in the first sentence of subsection d. to cover activities "arising out or in connection with the contractual activity." This phrase has been moved for clarification to paragraph d.(2), which so limits the indemnity coverage.

Finally, by mandating coverage, the Committee does not intend to affect the scope of coverage over nuclear incidents resulting from sabotage or from nuclear incidents occurring after diversion from any intended transportation route.

The Committee does not intend, nor does the bill purport to address, all terms and condition of such agreements of indemnification. The Committee intends that the current indemnity clause used by the Department of Energy will need to be amended only insofar as is specifically legislated in the bill.

NUCLEAR WASTE ACTIVITIES

The bill requires in a new subparagraph d.(1)(B)(I) that the Department of Energy be the indemnifying government agency for all nuclear waste activities undertaken by the Department of Energy through its contractors. The bill defines such activities as "the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including, but not limited to, activities authorized to be carried out relative to the Waste Isolation Pilot Plant authorized in Public Law 96-164."

This provision is required because the bill could create the conflicting requirement that DOE and NRC independently require financial protection or indemnity coverage under Price-Anderson. The Committee intends that NRC would have no role in indemnifying the DOE's waste contractors under the Price-Anderson system.

Paragraph d.(1)(B)(i)(II) permits, but does not require, the Secretary of Energy to waive a defense of government or charitable immunity relative to nuclear incidents arising out of nuclear waste activities. This authority is in excess of the Commission's authority to waive this defense for serious nuclear incidents, i.e., extraordinary nuclear occurrences under Section 170 n.

Paragraph d.(1)(B)(ii) requires that the Nuclear Waste Fund be the source of compensating public liability claims resulting from contractor activities funded by the Nuclear Waste Fund established in the Nuclear Waste Policy Act of 1982.

Paragraph d.(1)(B)(iii) requires that public liability claims arising out of the non-Nuclear-Waste-Fund nuclear waste activities are to be compensated through appropriation acts which utilize the general revenues of the Treasury of the United States. This would encompass, as examples, activities dealing with civilian research and development on nuclear waste funded out of the general revenues of the Treasury of the United States; nuclear waste activities undertaken by DOE for the defense program and funded out of the general revenues of the Treasury of the United States; activities at the Waste Isolation Pilot Plant funded out of the general revenues of the Treasury of the United States; and activities in connection with the West Valley Demonstration Project Act funded out of the general revenues of the Treasury of the United States.

The Committee believes that dividing the source of funds to pay for claims arising from nuclear waste activities is appropriate in that the division allocates responsibility for payment to those who are responsible for generating the waste. The spent fuel and nuclear waste storage, disposal and transportation activities of the government under the Nuclear Waste Policy Act of 1982 are conducted for the benefit of the commercial sector and the government. The government recovers no profit in carrying out this program, and will be paying into the Nuclear Waste Fund for its share of the program. It is, therefore, appropriate that each participating sector pay its proportionate share of any accident damages. The easiest mechanism for accomplishing this allocation is to use the Nuclear Waste Fund as a source for funding to pay such damages. The contributions to the fund to pay for the disposal and storage program are already based on the utility and defense communities prorated

share of expenses, so charging the fund for damage payments would automatically allocate the cost to the appropriate sector.

For other nuclear waste activities conducted by the government, the government alone is responsible for generating processing, handling and performing research and development on such waste, and it alone should be the source of payment of any claims for damages resulting from such activities.

Paragraph d.(2) permits the Secretary of Energy to require the contractor to purchase private insurance, termed "financial protection" under the Act, in amounts deemed appropriate by the Secretary. The Committee recognizes that financial protection is not usually required by the Secretary in the DOE's contracts for the operation of its facilities. The Committee agrees that such financial protection may not be advisable for all contractors in that the government would only be charged the additional cost of procuring such private insurance as overhead under the contract with the Department of Energy. Therefore, such a requirement of financial protection would simply serve to increase the costs of the government programs covered under the Price-Anderson Act system.

However, the Committee notes that the Secretary may wish to mandate financial protection for those contractors deemed ineligible for coverage under the existing Price-Anderson system, but who must be covered under the mandatory provisions in the bill as discussed above. The Committee notes that since private insurance for the contractors is not now available for such risks, financial protection must be in the form of self-insurance by the contractor. Therefore, for those contractor activities that the DOE believes might result in public liability for "non-substantial" nuclear incidents (and, thus, for whom Price-Anderson protection is now considered unnecessary), the DOE is authorized in paragraph d.(2) to require the contractor to self-insure.

Paragraph d.(2) includes in the indemnity coverage all reasonable costs of investigating and settling claims. This is fully appropriate for contractors since any such expenditures would be made for the benefit of the government and legitimate claimants.

EQUALITY OF COVERAGE FOR DOE AND NRC FACILITIES

Paragraph d.(3) requires Price-Anderson Act coverage for contractors to be the same as the highest level of Price-Anderson Act coverage for large commercial power plant licensees of the Nuclear Regulatory Commission. Since the coverage for power plant licensees of the NRC varies with the number of power plants in the financial protection pool, the level of coverage relative to contractors can go up but not down as such commercial plants are licensed and decommissioned. Therefore, the Price-Anderson coverage of contractors is decoupled from commercial power plant coverage when such commercial coverage goes down due to the decommissioning of such power plants.

EXCEPTION NO. 1

Although equality of Price-Anderson coverage of DOE contractors and NRC power plant licensees is the general rule, section 6 of the bill amends section 170 e.(3)(A) of the Price-Anderson Act to

allow public liability to be unlimited if the Congress does not act within one year after being officially notified that claims resulting from incidents under nuclear waste activities may exceed the liability limit.

EXCEPTION NO. 2

The second exception involves the costs incurred by contractors in investigating and settling claims under the Act. These costs are indemnified for contractors. However, for NRC licensees, section 170 b. excludes these costs as covered under the financial protection provided under the Act. The Committee intends to fully cover all reasonable contractor costs involved in administering claims under the Act.

EXISTING AGREEMENTS

Paragraph d.(3) requires the Secretary to amend existing agreements of indemnification with contractors to provide the higher level of indemnity required by the Act. Although the Act applies only for nuclear incidents occurring after August 1, 1987, this provision is intended to apply to incidents which are of a continuing nature which may occur immediately before or immediately after the effective date of the Act, lending uncertainty as to which indemnity level applies. Should such an incident occur, the bill requires full indemnification at whatever level is determined to be applicable, regardless of whether the agreement with the contractor was signed previous to the effective date or subsequent to it.

Paragraphs d.(4), d.(5) and d.(6) consist of unchanged provisions in the current Act. Paragraph numbering of these provisions was changed to conform to the remainder of the subsection.

DEFINITIONS

Section 4(b) of the bill amends Section 11 of the Atomic Energy Act by adding definitions of the terms "high-level radioactive waste," "spent nuclear fuel," "transuranic waste," and "nuclear waste activities." The first two terms are given the meanings assigned to these terms in the Nuclear Waste Policy Act of 1982. The third term is a modified version of the definition of the term given in the West Valley Demonstration Project Act (P.L. 96-368).

The Committee notes that the term "transuranic waste" has not been defined by the Nuclear Regulatory Commission as reported by the Interior Committee in their report on this legislation. The NRC's regulation 10 C.F.R. 61.55 permits the near-surface disposal of radioactive waste containing less than 100 nanocuries per gram of alpha-emitting transuranic nuclides, which in some respects contradicts the 10 nanocuries per gram included in the introduced bill.

Additionally, very little waste is produced or disposed by NRC licensees. A concentration limit of 100 nanocuries per gram is consistent with DOE Order 5820.2 and transuranic materials are produced by and disposed of, almost exclusively, by the DOE. So the definition in the bill is also inconsistent with the DOE definition.

But even if the concentration limit were set at the higher DOE limit it may not be high enough to effectuate the purpose of the Committee. It does not appear that the Interior Committee fully understood the ramifications of the definition of this term. Al-

though the TRU waste definition in the Act is placed in the section 11 of the Atomic Energy Act and thus applies to the entire Act, the term is only used in the Atomic Energy Act in the Price-Anderson section (§ 170). Thus, the TRU waste definition has an operative statutory effect only on those provisions dealing with nuclear liability.

The operative effect is that if TRU nuclides are present in any nuclear incident in excess of the defined concentration, then that incident (perhaps an accident at a reactor) could be considered a nuclear waste accident for purposes of determining whether or not unlimited liability applies. This is not intended. The Committee intends to limit the application of the nuclear waste provisions on unlimited liability to nuclear waste accidents as the common understanding of the term would indicate.

Thus, the Committee is attempting to remedy the potential misapplication of this provision by requiring both the NRC and the DOE to set the concentration limit for TRU elements at a high enough level so that non-nuclear-waste nuclear incidents under their respective jurisdictions are not considered nuclear waste accidents.

Finally, section 4(b) defines the term "nuclear waste activities" to encompass all activities of the Secretary of Energy dealing with spent nuclear fuel, high-level radioactive waste, or transuranic waste.

PRECAUTIONARY EVACUATIONS

Section 5, subsection (a), amends the definition of public liability in Section 11 w. of the Atomic Energy Act to include legal liability arising out of, or resulting from, a precautionary evacuation as well as a nuclear incident. Thus, the provision applies to potential nuclear incidents at either NRC licensed facilities or at DOE facilities.

The definition of public liability as amended by Section 5(a) makes it clear that all reasonable costs in excess of those regularly incurred by a state or political subdivision are eligible to be considered for reimbursement in the event of a state or local government response to a nuclear incident or precautionary evacuation. The provision is not intended to allow officials to claim costs normally incurred in paying a local police department or fire department or other state or local agency that is regularly available to respond to accidents involving the public.

Section 5(b) defines the term "precautionary evacuation." The ordinary definition of evacuation is intended here. If a state or local government official, empowered to make such decisions by state law, reasonably determines that an evacuation is necessary to protect the public health and safety because there is a risk of imminent danger of bodily injury or property damage from the expected release of radioactive materials, then such an evacuation is termed a precautionary evacuation under the Act. The expense involved in such a precautionary evacuation are covered under the Price-Anderson Act.

Section 5 (c) prohibits any court from awarding costs of a precautionary evacuation unless such costs are incurred in response to a

precautionary evacuation as defined under the Act. An evacuation which is not a reasonable response by a state official is not a precautionary evacuation under the Act, and costs incurred in conducting such an evacuation are not compensable under the Act.

LIMIT ON LIABILITY

Section 6 amends section 170 e. of the Price-Anderson Act. The new section 170 e. establishes the limit of aggregate public liability of persons indemnified as a result of a single nuclear incident. Included in such limit are the administrative costs of handling claims for damage.

Paragraph e.(1)(B) sets the aggregate public liability for contractors of the Department of Energy at the same level as for large commercial nuclear power plant owners. This level is set by subsection b. of the Price-Anderson Act (section 2 of the bill) at \$63 million for each such nuclear power plant. Assuming 109 large commercial power plants protected under the Act, the current maximum amount of financial protection is \$7.027 billion.

Paragraph e.(1)(C) sets the aggregate public liability for other licensees of the Commission, including universities owning research reactors, at \$500 million plus the amount of financial protection required. Since no financial portection is required of university licensees, the aggregate public liability for such universities is \$500 million, as is provided in existing law.

Paragraph e.(1)(C) also sets the aggregate public liability limit at \$560 million for other licensees of the Commission when they are required to purchase between \$60 million and \$560 million in private insurance. If more than \$560 million in private insurance is required, then this higher amount would be the aggregate liability limit.

COMPENSATION BEYOND THE LIMIT

Paragraph e.(2) reinforces the existing commitment of Congress in the Price-Anderson Act to "thoroughly review the particular incident and take whatever action is deemed necessary and appropriate" when accident damages exceed the aggregate public liability limit. The new paragraph commits the Congress to "take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude."

Paragraph e.(2) is to be read in conjunction with paragraph e.(6) which clarifies that Congress must define the meaning of "full and prompt compensation" when it decides the appropriate action to take in response to such a disaster. It is clear that Congress possesses the authority to define "full and prompt compensation" whether or not it is recognized in the Act that such authority exists.

The Committee believes that it should be recognized there is no such thing as unlimited compensation. A decision on the total assets available for such compensation must eventually occur. The states have routinely set maximum compensation levels for accidents in the workplace through workers' compensation statutes.

The Committee believes that Congress will make every effort to fully compensate all legitimate public liability claims resulting from any and all disasters; not just those occurring as a result of an accident at a nuclear facility. The Congress, at the time of any decision on compensation, will have to face critical national issues, including dealing with the limits of uncontrollable demands on the U.S. Treasury.

UNLIMITED COMPENSATION

The Committee strongly believes that an aggregate public liability limit is necessary in the Price-Anderson Act because of the unpredictability of prospectively providing for unlimited compensation for accident damages. The amount of potential damages cannot be projected in advance and all such damages may not be equally meritorious. It is well recognized that juries may arbitrarily award overly generous compensation to some claimants for damages which show no physical manifestations. Compensation for these kinds of damages is clearly subordinate to compensation for physical injury damages.

The aggregate limit is also particularly important because the determination of damages under this Act will be predicated on the contractor waiving its defenses against potential claimants.

The Committee believes it would be unwise and irresponsible to purport to enable all damage victims to reach into the federal Treasury (through the contractor indemnification) for compensation. No matter what position is taken in this bill, future Congresses retain the ability to assess the scope of the damages and determine the priorities.

Although the potential government liability under this Act would only establish the right to compensation in the event of a nuclear incident which would have been satisfied with an appropriation of funds, the right to unlimited compensation could significantly impair the ability of the government to function, and to honor its overall budgetary commitments. The Committee believes that not to admit these facts would, in essence, amount to misleading the public.

The Interior Committee action in deleting paragraph 6e.(6) of the bill, which recognizes Congress' right to define "full and prompt compensation," could lead the public to misconstrue the implication of their amendment, and the Committee, therefore, opposes it.

NUCLEAR WASTE LIABILITY TREATED DIFFERENTLY

New paragraph e.(3)(A) treats the issue of aggregate public liability for nuclear incidents arising from nuclear waste activities differently from all other nuclear incidents. The Committee stated last year in its report on H.R. 3653 (Report 99-636, Part 2) that "The Committee does not believe that it makes for good public policy to distinguish between an accident at a nuclear waste facility and an accident at other DOE contractor-operated facilities. The distinction is certainly not defensible in terms of the potential consequences of accidents but is largely based on public apprehension on this controversial issue." The Committee stands by these com-

ments, but in the interest of compromise has agreed to the provisions of paragraph e.(3)(A).

Essentially, this paragraph states that if the Congress is appropriately notified that the potential claims will exceed the aggregate public liability, then the Congress has one year to provide "full and prompt compensation to the public" for such public liability. If the Congress does not act within the one-year period, the limitation on liability is lifted, and essentially the government is subjecting itself to unlimited liability.

The Committee believes that it is appropriate that the Congress act within one year of such proper notification. The Committee believes that future Congresses would act in the best interest of the people of this nation regardless of the largely symbolic language that this Congress deems appropriate to enact. However, the public should not be deluded into thinking that this Congress can bind a future Congress on the ultimate level of the compensation package provided by that future Congress.

SOURCE OF FUNDS IN EXCESS OF LIABILITY LIMIT

Paragraph e.(4) clarifies again that Congress may seek any source of funds it deems appropriate in enacting its plan for compensation in excess of the liability limit. The Committee believes that this language is a simple restatement of the legislative prerogatives of a future Congress.

LIMIT ON LIABILITY FOR ACCIDENTS OUTSIDE THE U.S.

Paragraph e.(5) continues existing law and limits aggregate public liability for any nuclear incident occurring outside the United States to \$100 million.

SOURCE OF FUNDS FOR CONTRACTOR'S LIABILITY PAYMENTS

Paragraph e.(7) requires that the funds used to pay damages be derived from either the financial protection required of the contractor, if any such protection is required, or from the funds of the federal government through the indemnity provided to the contractor pursuant to this section.

STATEMENT OF CONGRESS' AUTHORITY

Paragraph e.(6) clarifies that a future Congress will have the latitude to define "full and prompt compensation." As previously stated, this provision is a clarification of the prerogatives of Congress, made to avoid any misconstruction of what is within the power of this Congress to prescribe.

COMPENSATION PLANS FOR DAMAGES IN EXCESS OF LIABILITY LIMIT

Section 7 amends Section 170 i. of the Atomic Energy Act by establishing the requirements and procedures for Congressional review of any nuclear incident when the claims are likely to exceed the aggregate public liability stipulated in the bill. The NRC or the DOE, as appropriate, would be required to report to Congress on the implications of a disaster of such magnitude. The President is also required to report to the Congress on a plan to fully compensate the public.

UNIVERSITY RESEARCH REACTORS

Section 8 would extend by ten years (to August 1, 1997) the NRC's authority under subsection 170 k. of the current Act to indemnify universities licensed to operate nuclear research reactors. This section would also clarify the fact that a university's cost of administering claims under the Act would be included in the Price-Anderson Act coverage.

REPEAL OF UNNEEDED PROVISION

Section 9 amends Section 170 l. by striking the now obsolete authority of the Atomic Energy Commission to indemnify contractor activities involving the nuclear ship *Savannah*, which has been decommissioned. The Committee notes that the indemnity contracts signed relative to these activities remain in full force and effect should anyone claim compensatory damages under Price-Anderson for activities involving that nuclear ship.

ESTABLISHMENT OF 2-YEAR STUDY COMMISSION

Section 9 also adds a new subsection 170 l. to the Act requiring the President to establish a commission within 90 days of enactment of this bill to study the appropriate means of fully compensating the public in the event of a catastrophic nuclear accident exceeding the statutory limitations on liability.

The Study Commission is required to recommend to Congress: (a) any changes in civil procedures needed to assure prompt disposition of claims; (b) standards for establishing priorities among claims; and (c) provisions for addressing latent injury claims.

The study Commission's report is to be submitted two years after enactment of the bill and the Commission will terminate two months after transmittal of the report.

SHORTEST STATUTE OF LIMITATIONS IN THE EVENT OF A SERIOUS ACCIDENT

Section 10 amends Section 170 n.(1) of the current Act by requiring that shorter statutes of limitations in the states be waived in favor of a 3-year-from-discovery federal statute of limitations. This provision applies only in the event of a serious nuclear accident, i.e. "extraordinary nuclear occurrence." If a state has a longer statute of limitations, the state statute will apply since the statute of limitations in the Act applies only when there is a shorter statute of limitations in state law that must be waived by the contractor for a claim to be cognizable under the Act.

As a result of the change in this provision, a claim resulting from an extraordinary nuclear occurrence is cognizable under this Act if it is made within three years of the date the claimant knew or reasonably could have known of the injury. The overall statute of limitations in the existing Act of twenty years from the date of the accident has been deleted. What remains is the 3-year-from-discovery provision.

WAIVERS MADE FOR NUCLEAR WASTE ACCIDENTS

Subsection 10(b) broadens the application of the "waiver of defenses" provisions of the existing Act to include extraordinary nuclear waste occurrences involving nuclear waste activities undertaken by the Secretary of Energy, or nuclear material licensees indemnified by the NRC. The Committee notes that the provision relative to the nuclear waste activities undertaken by the Secretary is meant to refer only to those activities undertaken by contract and not to activities undertaken by any federal government employee.

JUDICIAL AUTHORITY AND CONSOLIDATION OF CLAIMS

Section 11, subsection (A) amends Section 170 n.(2) of the Atomic Energy Act to make the "consolidation of claims" provisions of that paragraph applicable to all nuclear incidents rather than just nuclear incidents deemed to constitute an "extraordinary nuclear occurrence." This change is necessary to ensure the equitable and uniform treatment of all victims and the coordination of all phases of litigation that could result from a nuclear accident, even though such accident does not constitute a serious accident, i.e. an "extraordinary nuclear occurrence."

Section 11(a) also permits consolidation and removal of all public liability actions pending on the date of enactment of the bill.

Section 11(b) defines the term "public liability action" as any suit asserting public liability, and states that any such action arises under the Price-Anderson Act for purposes of federal court jurisdiction. The subsection further provides that the substantive rules for decision in such action are to be derived from the law of the state in which the nuclear incident occurs, unless such laws are inconsistent with the Price-Anderson Act.

Section 11(c) amends Section 170 n. of the current Act to authorize the chief judge of the Federal District Court in which claims are consolidated to establish a special caseload management panel to assist the court in coordinating and assigning cases arising out of the nuclear incident. The authority to establish the panel is limited to serious accidents wherein the claims are likely to exceed the aggregate public liability established in the Act, or have an unusual impact of the work load of the court.

DOE AND NRC REPORTS TO CONGRESS

Section 12 amends Section 170 p. of the current Act to require NRC and DOE to report to the Congress by August 1, 1993, on the need for continuation or modification of the Price-Anderson Act. The Committee believes that the Price-Anderson Act is a necessary component of the government's research and development on nuclear energy. However, modifications of the Act have been, and probably will be, considered appropriate as new circumstances arise. This provision continues the formal practice of requiring the implementing agencies to report to Congress on their experience in implementing the Act and their recommendations for improvement.

This section also imposes annual reporting requirements on both agencies regarding activities under Section 170 during each calendar year. Thus, the agencies would report to Congress on any

claims that have been made under Price-Anderson and their status in terms of consideration or payment.

CRIMINAL AND CIVIL PENALTIES

Finally, in paragraph (3), the Secretary of Energy is required to report to the Congress on the civil and criminal liabilities of all Department of Energy contractors and other indemnified parties who intentionally cause or attempt to cause a nuclear accident at a DOE facility.

The Committee believes strongly that such intentional misconduct should be punished. Although the Price-Anderson Act may not be the appropriate place to address civil and criminal penalties of such actions, the Atomic Energy Act should provide for appropriate punishment should such actions occur. The Committee believes that appropriate mechanisms for such punishment may exist in the Atomic Energy Act and as part of the usual contract administration process in the government.

The Committee is aware that section 161 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201 b.) permits the Secretary of Energy to establish rules and other instructions governing its facilities. The Committee is also aware that section 223 (42 U.S.C. 2273) of this same Act provides for criminal penalties of up to \$5,000 and imprisonment for not more than two years or both for a person who willfully violates the rules or regulations of the Secretary, and provides for a punishment of not more than \$20,000 or imprisonment for not more than 20 years or both for a person who intentionally commits such an offense with intent to injure the United States. There may also be other provisions of law enabling the government to punish such misconduct.

The Committee is also aware that the Department of Energy has authority to withhold award fees, to terminate a contract, and to debar a contractor from working for the government.

These potential penalties may be sufficient to both discourage such misconduct and encourage responsibility in the Department of Energy's contractors. The Committee, however, wants to receive the Secretary of Energy's full report on this issue as well as any recommendations he may have for improving the Atomic Energy Act of 1954, making the provisions of the Atomic Energy Act of 1954 consistent as regards penalties for DOE contractors and penalties for NRC licensees, or otherwise changing the provisions dealing with such intentional misconduct.

The Committee is aware that the Department of Energy's relationship with its contractors is fundamentally different from NRC's relationship with its licensees. The Committee notes that the DOE's relationship with its contractors is more in the nature of a partnership in the operation and control of the government's facilities. Additionally, the fees provided to these contractors are small, or nonexistent, indicating a special relationship. Therefore, the Committee opposes inclusion of a subrogation provision or civil or criminal penalties in the Price-Anderson Act.

Section 13 of the bill deals principally with commercial power plant licensees.

PUNITIVE DAMAGES

Section 14 prohibits the courts from awarding punitive damages where the federal government would be liable for such damages under any indemnification agreement.

INFLATION ADJUSTMENT

Section 15 requires the NRC to adjust the aggregate standard deferred premium once every five years to reflect the change in the Consumer Price Index.

TECHNICAL AND CONFORMING CHANGES

Section 16 amends the references to the Atomic Energy Commission in the Price-Anderson Act to refer to either the NRC or the Secretary of Energy as appropriate. It also deletes an obsolete reference to the Joint Committee on Atomic Energy, and makes other technical and conforming changes.

EFFECTIVE DATE OF CHANGES

Section 17 dictates that the effective date of the Act is August 1, 1987, and that it applies to nuclear incidents occurring on or after such date. Two exceptions to this effective date are stipulated, which are consistent with the other provisions of the Act. Section 9 dealing with the establishment of a commission on catastrophic accidents is effective on the date of enactment of the Act, and the section dealing with the judicial review of claims arising out of a nuclear incident is made effective on the date of enactment of the Act for all nuclear incidents.

Section 18 provides that the authority of the Secretary of Energy under the Price-Anderson Act will continue two years beyond the 1997 date should Congress fail to enact renewal legislation before the August 1, 1997 expiration date. This authority is provided to avoid a potential gap in indemnity authority after the ten year expiration of the Act and before Congress enacts renewal legislation.

VII. INFLATION IMPACT

The bill establishes a Presidential Commission on Catastrophic Nuclear Accidents which is estimated to cost \$500,000 per year, for fiscal years 1987 and 1988. This is estimated to have no inflationary impact on prices and costs in the operation of the national economy.

The other provisions of the bill affect the government's financial liability, but would not increase federal spending unless a nuclear incident involving federal indemnification occurs. If such an incident were to occur, enactment of the bill would increase the government's potential financial liability from \$500 million to a current maximum of \$7.027 billion. For a nuclear waste accident, government liability may become unlimited if Congress does not act to provide "full and prompt compensation" within one year of being notified, as provided in the bill, that claims will exceed the \$7 billion liability limit. Additionally, the bill commits the Congress to take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of

funds) to provide "full and prompt compensation" to the public for all other valid public liability claims resulting from radioactive releases which cause damages in excess of the limitation on liability.

Raising the liability and indemnification limit for government contractors from \$500 million to \$7.0 billion with the present pool of plants will not affect claims associated with any past nuclear incident since the amendments made by H.R. 1414 to such limit are applicable with respect to nuclear incidents occurring on or after August 1, 1987.

In accordance with rule XI, clause 2(1)(4) of the Rules of the House of Representatives, this legislation is assessed to have no inflationary effect on prices and costs in the operation of the national economy, unless a serious nuclear accident occurs which causes large public damages. In that event, the legislation could have a minimal to moderate impact on the operation of the national economy. However, the impact on the economy could be significantly worse in the absence of this legislation because an accident or disaster of such magnitude would have lasting detrimental effects on the economy in the absence of the means for providing appropriate compensation to the public affected by such an accident.

VIII. COMMITTEE DETERMINATION ON ADVISORY COMMITTEE

Section 9 of the bill reported by the Committee amends section 170 l. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(1)) to establish a Presidential Commission on Catastrophic Nuclear Accidents. In accordance with the requirements of section 5(b) of the Federal Advisory Committee Act (5 U.S.C. App.), the Committee has determined that the functions of the proposed commission are not and cannot be performed by enlarging the mandate of an existing advisory committee.

IX. OVERSIGHT STATEMENT

The Committee has conducted hearings and other oversight activities on the Price-Anderson Act for some time and will continue to maintain oversight of the implementation of this legislation pursuant to its general oversight responsibilities under rule X, clause 2(b)(1), and its special oversight responsibility under rule X, clause 3(f). The results and findings from these oversight activities are incorporated in the recommendations found in the present bill and report.

X. SUMMARY OF GOVERNMENT OPERATIONS COMMITTEE FINDINGS AND RECOMMENDATIONS

No findings and recommendations on oversight activity pursuant to rule X, clause 2(c)(2), and rule XI, clause 2(1)(3), of the Rules of the House of Representatives, have been submitted by the Committee on Government Operations for inclusion in this report.

XI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 22, 1987.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space, and Technology,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1414, the Price-Anderson Amendments Act of 1987, as ordered reported by the House Committee on Science, Space, and Technology, July 22, 1987. This bill would increase the government's potential financial liability in the event of a nuclear accident involving federal contractors and certain other types of nuclear accidents. Because there is no basis for predicting the number and magnitude of such incidents, CBO cannot estimate the cost of the increased liability. The bill also raises the maximum liability of operators of commercial nuclear power plants, thus decreasing the likelihood that an accident involving such a facility would exceed the liability limit and possibly necessitate government action.

CBO estimates that the bill's provision for a new Presidential Commission on Catastrophic Nuclear Accidents would cost approximately \$500,000 per year, for fiscal years 1988 and 1989. No significant costs to the federal government would result from other provisions of H.R. 1414.

Bill purpose

H.R. 1414 extends and revises the Price-Anderson Act, which governs the liability and indemnification of federal licensees and contractors in the event of a nuclear accident. Under this law, the Nuclear Regulatory Commission (NRC) regulates and indemnifies licensees, and Department of Energy (DOE) indemnifies its contractors. The Science Committee's bill would extend DOE's indemnification authority to August 1, 1999, while the provisions relating to commercial licensees would expire in 1997.

Under current law, which expires on August 1, 1987, utilities are required to carry the maximum available private liability insurance, currently \$160 million per reactor. For nuclear accident damages beyond this "primary layer" of compensation, each licensed reactor may be assessed a charge of \$5 million per accident. The law calls these charges "deferred premiums"; they would not be assessed until an accident occurs. With 109 reactors currently licensed by the NRC, this "secondary layer" of nuclear accident insurance totals \$545 million, for a total commercial liability of \$705 million (under current law). Federal liability for nuclear accidents caused by DOE contractors is currently limited to \$500 million.

H.R. 1414 raises the maximum liability for a nuclear accident involving commercial power plants and federal contractors from \$705 million and \$500 million, respectively, to an estimated \$7.0 billion per incident. The bill sets the liability limit according to the amount of financial protection that the NRC requires commercial licensees to maintain from primary liability insurance (currently \$160 million), and from deferred premiums levied on all other oper-

ating plants (up to \$63 million per reactor, as determined by the NRC). In general, the aggregate deferred premium of \$63 million per reactor, for each nuclear accident, is to be paid at a rate of no more than \$10 million per year.

The bill provides the NRC with authority to assess certain facilities annual deferred premiums less than the standard deferred premium of \$10 million per year under special circumstances. If the NRC reduces annual premiums, the licensee would have to pay the difference between the standard deferred premium and the reduced premium in later years, with interest at a rate determined by the Secretary of the Treasury.

The estimated \$7.0 billion limit established by H.R. 1414 would be increased over time, because the bill requires the NRC to make inflation adjustments to the aggregate deferred premium at least once every five years. CBO estimates that the aggregate deferred premium would rise from \$63 million per plant at the end of fiscal year 1987 to approximately \$77 million per plant by the end of fiscal year 1992.

The bill includes instructions that the NRC shall request either an appropriation to meet any nuclear accident claims for which the commission is liable, or borrow the required funds from the Treasury. Any funds appropriated or borrowed to meet claim requirements shall be repaid to the Treasury from amounts made available by future deferred premiums, with interest. Special procedures are included in the bill for Congressional action on claims exceeding the above limits. However, the federal government is not liable for any claims beyond the indemnity provisions in the Price-Anderson Amendments Act. Specifically, the government has no legal liability for accidents caused by commercial reactor licensees (beyond what the NRC can collect in deferred premiums under the act); and the government's liability for accidents caused by DOE contractors is limited to the total of primary liability insurance and aggregate deferred premiums (\$7.0 billion per incident under current insurance and premium assumptions).

H.R. 1414 explicitly makes federal indemnification applicable to certain activities or incidents. For example, it confirms that DOE must indemnify contractors involved with its nuclear waste programs. Claims related to the Nuclear Waste Fund are to be paid directly from the fund. The bill also provides for the reimbursement of the cost of precautionary evacuations resulting from incidents involving contractors indemnified by the federal government under certain conditions.

H.R. 1414 also makes provision for the payment of certain legal costs incurred during the litigation of Price-Anderson insurance claims. A court may authorize the payment of legal costs from the amount of financial protection that is provided by the assessment of deferred premiums. The Science Committee bill also confirms that DOE can indemnify its contractors for administrative and legal costs for claims involving accidents caused by DOE contractors. In addition, the bill clarifies the fact that NRC can cover such legal costs for university research reactors.

Budget impact

The increase, due to H.R. 1414, in the liability for accidents involving commercial plants would not directly affect the federal government's financial liability, because commercial licensees would be ultimately responsible for all accident claims up to the new liability limits. It is possible that the government would take action in the event of an accident with claims exceeding the licensees' liability, though no actions would be required under law. The increase in the commercial liability limit makes it less likely that such government involvement would occur in the event of a major nuclear accident. On the other hand, because the government fully indemnifies federal contractors, the increase in liability for incidents involving the contractors would be borne by the federal government. The liability and indemnification of other licensees would remain at current levels.

The provisions affecting the government's financial liability would not increase federal spending in fiscal years 1987 through 1992 unless a nuclear incident involving federal indemnification occurs in those years. If such an accident were to occur, enactment of the bill would increase the government's potential financial liability by an estimated \$6.5 billion per accident for accidents caused by DOE contractors that are indemnified by DOE under current law. For certain incidents that may not be covered under current law, H.R. 1414 would establish the government's potential liability at an estimated \$7.0 billion per incident. (For example, the bill confirms that the total Price-Anderson liability limit applies to federal nuclear waste programs; the bill also requires that DOE insure its demonstration reactors.)

The limit on the federal government's liability is linked to the total commercial liability for a nuclear accident. The government's liability would increase in the future as a result of any increase in the number of commercial reactors with operating licenses, and as a result of increases in the inflation-adjusted premiums. However, the bill does not allow a reduction in federal liability in the event that the maximum amount of commercial liability is reduced (because of a reduction in the number of commercial reactors). This estimate assumes that commercial licensees would be required to maintain at least \$160 million in primary liability insurance, and that the 109 reactors with operating licenses would be subject to the maximum deferred premiums. Raising the liability and indemnification limit is not expected to affect the government's costs for claims currently pending before the courts and DOE, because the amount of alleged damages per incident does not exceed the liability limit in existing law.

H.R. 1414 requires that the President establish a Commission on Catastrophic Nuclear Accidents within 90 days after enactment of the bill. The commission shall consist of 7 to 11 members who must conduct a study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the aggregate liability specified by H.R. 1414. A final report containing the commission's recommendations must be submitted to the Congress within two years of enactment of the bill. The estimated cost of establishing this Presidential commission is \$500,000 per year, for fiscal

years 1988 and 1989. The commission shall terminate two months after the required final report is submitted.

Other provisions in the bill are expected to have no significant impact on federal outlays.

No costs would be incurred by state or local governments as a result of enactment of this bill.

On May 14, 1987, CBO provided an estimate of the budget impact of H.R. 1414, as ordered reported by the House Committee on Interior and Insular Affairs, May 6, 1987. On July 17, CBO provided an estimate of the budget impact of H.R. 1414, as ordered reported by the House Committee on Energy and Commerce, July 8, 1987. The Science Committee bill is identical to the Interior Committee and the Energy Committee bills in most respects. The changes in the federal liability are essentially the same for both bills; however, the Science Committee bill extends DOE indemnification authority until August 1, 1999, while such authority would expire in 1997 under both the Interior Committee and the Energy Committee bills.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

XII. COMMITTEE RECOMMENDATION

The Committee on Science and Technology, by voice vote, a quorum being present, ordered H.R. 1414, as amended, favorably reported to the House of Representatives on July 22, 1987.

XIII. CHANGES IN EXISTING LAW

In compliance with rule XIII, clause 3, of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman, and large unchanged blocks of existing law are indicated by * * *):

ATOMIC ENERGY ACT OF 1954

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SEC. 11. DEFINITION.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

* * * * *

j. The term "extraordinary nuclear occurrence" means any event causing a discharge or dispersal of source, special nuclear, or by-product material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the [Commission] *Nuclear Regulatory Commission or the Secretary of Energy, as appropriate*, determines to be substantial, and which the [Commission] *Nuclear Regulatory Commission or the Secretary of Energy, as appropriate*, determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the [Commission] *Nuclear Regulatory Commission or the Secretary of Energy, as appropriate*, that such an

event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The **[Commission]** *Nuclear Regulatory Commission or the Secretary of Energy, as appropriate*, shall establish criteria in writing setting forth the basis upon such determination shall be made. As used in this subsection, "offsite" means away from "the location" or the "contract location" as defined in the applicable **[Commission]** *Nuclear Regulatory Commission or the Secretary of Energy, as appropriate*, indemnity agreement, entered into pursuant to section 170.

* * * * *

m. The term "indemnitor" means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the **[Commission]** *Nuclear Regulatory Commission or the Secretary of Energy, as appropriate*, with respect to any obligation undertaken by it in an indemnity agreement entered into pursuant to section 170.

* * * * *

q. The term "nuclear incident" means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however, That as the term is used in [subsection] section 170 l., it shall include any such occurrence outside the United States: And provided further, That as the term is used in [subsection] section 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: And provided further, That as the term is used in [subsection] section 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the **[Commission]** *Nuclear Regulatory Commission* to another person licensed by the **[Commission]** *Nuclear Regulatory Commission*.*

* * * * *

t. The term "person indemnified" means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in **[subsection] section 170 c.**, and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship *Savannah*, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person, who may be liable for public liability or (2) with respect to any other nuclear incident oc-

curing outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the [Commission] Secretary of Energy or any project to which indemnification under the provisions of [subsection] section 170 d., has been extended or under any subcontract, purchase order, or other agreement, or any tier, under any such contract or project.

* * * * *

w. The term "public liability" means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation), except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever use in [subsection 170 a., c., and k.] subsections a., c., and k. of section 170, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. "Public liability" also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

* * * * *

dd. The terms "high-level radioactive waste" and "spent nuclear fuel" have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

ee. The term "transuranic waste" means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in such concentrations as the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, may prescribe to protect the public health and safety.

ff. The term "nuclear waste activities," as used in section 170, means activities that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265).

gg. The term "precautionary evacuation" means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or

property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to order such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.

hh. the term "public liability action", as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.

* * * * *

SEC. 170. INDEMNIFICATION AND LIMITATION OF LIABILITY.—

a. *REQUIREMENT OF FINANCIAL PROTECTION FOR LICENSEE.*—Each license issued under section 103 or 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63, or 81 may, for the public purposes cited in **[subsection 2 i, of the Atomic Energy Act of 1954, as amended]** section 2 i., have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the **[Commission]** *Nuclear Regulatory Commission (in this section referred to as the "Commission")* in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection **[170]** b. to cover public liability claims. Whenever such financial protection is required it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection **[170]** c. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

b. *AMOUNT AND TYPE OF FINANCIAL PROTECTION FOR LICENSEES.*—(1) The amount of *primary* financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: **[(1)]** (A) the cost and terms of private insurance, **[(2)]** (B) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and **[(3)]** (C) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of *primary* financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources (excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection). Such *primary* financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. **[In prescribing such terms and conditions for licensees required to have and main-**

tain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from the date of enactment of this Act, include, in determining such maximum amount, *】 The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: Provided, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such primary financial protection: And provided further, 【That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than \$2,000,000 nor more than \$5,000,000 for each facility required to maintain the maximum amount of financial protection】 That the aggregate amount of the standard deferred premium that may be charged following any nuclear incident under such a plan shall not be more than \$63,000,000 (but not more than \$10,000,000 in any 1 year) for each facility required to maintain the maximum amount of primary financial protection: And provided further, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's prorata share of the aggregate public liability claims [and costs] arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this Act shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. 【The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard.】*

(2)(A) *The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—*

(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment with a reasonable period of time, with interest at a rate determined by the Secretary of

the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.

(3) The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues or such licensee to secure such reimbursement and consent to the automatic revocation of any license.

(4)(A) In the event that, the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds—

(i) request the Congress in appropriate sufficient funds to satisfy such payments; or

(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amount made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obligations to the United States of comparable maturities during the

month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and the sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

* * * * *

C. INDEMNIFICATION OF LICENSEES BY NUCLEAR REGULATORY COMMISSION.—The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, [1987] 1997, for which it requires financial protection of less than \$560,000,000, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed \$500,000,000, excluding costs of investigation and settling claims and defending suits for damage: *Provided, however,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed \$60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, [1987] 1997, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, [1987] 1997.

[d. In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1987, to enter into agreements of indemnification with its contractors for the construction or operation or production or utilization facilities or other activities under contracts for the benefit of the United States involving activities under the risk of public liability for a substantial nuclear incident. In such agreements of indemnification the Commission may require its contractor to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of \$500,000,000, excluding costs of investigating and setting claims and defending suits for damage in the aggregate for all persons indemnified in connection with such contract and for each nuclear incident: *Provided,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed \$60,000,000: *Provided further,* That in the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Commission shall not exceed \$100,000,000. The pro-

visions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Commission. A contractor with whom an agreement of indemnification has been executed and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this section, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.】

d. INDEMNIFICATION OF CONTRACTORS BY DEPARTMENT OF ENERGY.—(1)(A) In addition to any other authority the Secretary of Energy (in this section referred to as the "Secretary") may have, the Secretary shall enter into agreements of indemnification with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability.

(B)(i)(I) For all nuclear waste activities, indemnification under subparagraph (A) shall be the exclusive means of indemnification under this section.

(II) In any such agreement of indemnification, the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity, authorized in subsection n. (1) to be incorporated in agreements of indemnification, may also be made applicable to nuclear incidents arising out of nuclear waste activities.

(ii) For the purpose of compensating public liability claims, as defined in section 11 w. arising out of nuclear waste activities funded by the Nuclear Waste Fund established in section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), the Secretary shall make available funds from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection b. and subject to the limitations in section 302(e)(2) of such Act.

(iii) Public liability claims arising out of activities not specified in clause (ii), shall be compensated in accordance with the provisions of this Act and, to the extent approved in appropriation Acts, from the general revenues of the Treasury.

(2) In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including costs of investigating and settling claims and defending suits for damage.

(3) For any demonstration reactor under the control of the Secretary and licensed under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section.

(4) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection b. is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall be increased to equal the maximum amount of financial protection required of licensees under subsection b. The Secretary shall amend any agreement of indemnification under which the Secretary may be required to indemnify any person under this subsection to provide for any increase required by this paragraph in the amount of indemnity required by this subsection.

(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed \$100,000,000.

(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

(7) A contractor with whom an agreement of indemnification has been executed and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this section, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.

[e. The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of \$500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds \$60,000,000 such aggregate liability shall not exceed the sum of \$560,000,000, or the amount of financial protection required of the licensee, whichever amount is greater: *Provided*, That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: And provided further, That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection 170 d. is applicable such aggregate liability shall not exceed the amount of \$100,000,000 together with the amount of financial protection required of the contractor.]

e. *LIMITATION ON AGGREGATE PUBLIC LIABILITY.*—(1) *The aggregate public liability for a single nuclear incident of persons indemnified, including the costs of investigating and settling claims and defending suits for damage, shall not exceed—*

(A) *in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection b.;*

(B) *in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection d.,*

the maximum amount of financial protection required under subsection; and

(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

(i) \$500,000,000, together with the amount of financial protection required of the licensee; or

(ii) if the amount of financial protection required of the licensee exceeds \$60,000,000, \$560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with subsection i. and take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

(3)(A) The limitation of aggregate public liability established under paragraph (1) shall not apply to any nuclear incident arising from nuclear waste activities if—

(i) a court, acting pursuant to subsection o., determines in writing that public liability from such nuclear incident is likely to exceed the amount of aggregate public liability under paragraph (1); and

(ii) the Congress does not act to provide for the full and prompt compensation to the public for such public liability resulting from such nuclear incident within 1 year of the submission by the President to the Congress of a compensation plan under subsection i. (2)(C).

(B) Public liability arising under subparagraph (A) shall be compensated in accordance with the provisions of this Act and, to the extent approved in appropriation Acts, from the general revenues of the Treasury. (4) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection b., to fund any action undertaken pursuant to paragraph (2).

(5) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection d. is applicable, such aggregate liability shall not exceed the amount of \$100,000,000, together with the amount of financial protection required of the contractor.

(6) As used in this subsection, the term "full and prompt compensation" shall have the meaning given such term by an Act of Congress described in paragraph (2).

(7) The funds provided by financial protection and/or indemnity pursuant to this section, and where appropriate, the funds provided as a result of the issuance of obligations pursuant to this section, shall be the exclusive source of payments for public liability.

f. **COLLECTION OF FEES BY NUCLEAR REGULATORY COMMISSION.**—The Commission or the Secretary, as appropriate, is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be \$30 per year

per thousand kilowatts of thermal energy capacity for facilities licensed under section 103: *Provided*, That the Commission or the Secretary, as appropriate, is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of \$60,000,000. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than \$100 per year.

g. *USE OF SERVICES OF PRIVATE INSURERS.*—In administering the provisions of this section, the Commission or the Secretary, as appropriate, shall use, to the maximum extent practicable, the facilities and services of private insurance organizations, and the Commission or the Secretary, as appropriate, may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), as amended, upon a showing by the Commission or the Secretary, as appropriate, that advertising is not reasonably practicable and advance payments may be made.

h. *CONDITIONS OF AGREEMENTS OF INDEMNIFICATION.*—The agreement of indemnification may contain such terms as the Commission or the Secretary, as appropriate, deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission or the Secretary, as appropriate, makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission or the Secretary, as appropriate, shall collaborate with any persons indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission or the Secretary, as appropriate, shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this Act. Such settlement shall not include expenses in connection with the claim incurred by the person indemnified.

[i. After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of \$560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, to the Congressmen of the affected districts, and to the Senators of the affected States, and, except for information which would cause serious damage to the national defense of the United States, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.]

i. **COMPENSATION PLANS.**—(1) After any nuclear incident involving damages that are likely to exceed the amount of aggregate liability under subsection e. (1), the Secretary or the Commission, as appropriate, shall—

(A) make a survey of the causes and extent of damage; and

(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts.

(2) Not later than 90 days after any determination by a court, pursuant to subsection o., that the public liability from a single nuclear incident may exceed the amount of aggregate liability under subsection e. (1), the President shall submit to the Congress—

(A) An estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate liability under subsection e. (1);

(B) recommendations for additional sources of funds to pay claims exceeding the amount of aggregate liability under subsection e. (1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

(C) 1 or more compensation plans, that either individually or collectively shall provide for full, equitable and efficient compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

(D) any additional legislative authorities necessary to implement such compensation plan or plans.

j. **CONTRACTS IN ADVANCE OF APPROPRIATIONS.**—In administering the provisions of this section, the Commission or the Secretary, as appropriate, may make contracts in advance of appropriations and incur obligations without regard to [section 3679 of the Revised Statutes, as amended.] sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31, United States Code.

k. **EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT FOR NONPROFIT EDUCATIONAL INSTITUTIONS.**—With respect to any license issued pursuant to section 53, 63, 81, 104 a., or 104 c. for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection requirement of subsection [170] a. With respect to licenses issued between August 30, 1954, and August 1, [1987,] 1997, for which the Commission grants such exemption:

(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of \$250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident

shall not exceed \$500,000,000, excluding cost of investigating and settling claims and defending suits for damage;

(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

Any licensee may waive an exemption to do which it is entitled under this subsection. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, [1987,] 1997, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, [1987,] 1997.

[1. The Commission is authorized until August 1, 1977, to enter into an agreement of indemnification with any person engaged in the design, development, construction, operation, repair, and maintenance or use of the nuclear-power ship authorized by section 716 of the Merchant Marine Act, 1936, and designated the "nuclear ship Savannah." In any such agreement of indemnification the Commission may require such person to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising from a nuclear incident in connection with such design, development, construction, operation, repair, maintenance or use and shall indemnify the person indemnified against such claims above the amount of the financial protection required in the amount of \$500,000,000 excluding costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with each nuclear incident: *Provided*, That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed \$60,000,000.]

1. PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.—(1) Not later than 90 days after the date of the enactment of the Price-Anderson Amendments Act of 1987, the President shall establish a commission (in this subsection referred to as the "study commission") in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate liability under subsection e. (1).

(2)(A) The study commission shall consist of not less than 7 and not more than 11 members, who—

(i) shall be appointed by the President; and

(ii) shall be representative of a broad range of views and interests.

(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

(E) The President shall designate 1 of the members of the study commission as chairperson, to serve at the pleasure of the President.

(3) The study commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate liability under subsection e.(1), and shall submit to the Congress a final report setting forth—

(A) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period; and

(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and title 5, United States Code.

(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

(C) The Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice or assistance upon request by the chairperson of the study commission.

(E) Each member of the study commission may receive compensation at the maximum rate now or hereafter prescribed by law for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per

diem in lieu of subsistence under sections 5702 and 5703 of title 5, United States Code.

(F) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.) that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1987.

(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.

m. **COORDINATED PROCEDURES FOR PROMPT SETTLEMENT OF CLAIMS AND EMERGENCY ASSISTANCE.**—The Commission or the Secretary, as appropriate, is authorized to enter into agreements with other indemnitors to establish coordinated procedures for the prompt handling, investigation, and settlement of claims for public liability. The Commission or the Secretary, as appropriate, and other indemnitors may make payments to, or for the aid of, claimants for the purpose of providing immediate assistance following a nuclear incident. Any funds appropriated to the Commission or the Secretary, as appropriate, shall be available for such payments. Such payments may be made without securing releases, shall not constitute an admission of the liability of any person indemnified or of any indemnitor, and shall operate as a satisfaction to the extent thereof of any final settlement or judgement.

n. **WAIVER OF DEFENSES AND JUDICIAL PROCEDURES.**—(1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

[(a)] (A) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility, [or]

[(b)] (B) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility, [or]

[(c)] d(C) during the course of the contract activity arises out of or results from the possession, operation, or use by a [Commission] Department of Energy contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

(D) arises out of, results from, or occurs in the course of, the construction, possession, or operating of any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a.,

(E) arises out of, results from, or occurs, in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condi-

tion of the license a requirement that the licensee have and maintain financial protection under subsection a., or

(F) arises out of, results from, or occurs in the course of, nuclear waste activities undertaken by the Secretary, including, but not limited to, activities undertaken by contract,

the Commission or the Secretary, as appropriate, may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant of fault of persons indemnified, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than [twenty] thirty years after the date of the nuclear incident. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforceable in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection [170]e.

(2) With respect to any public liability action arising out of or resulting from [an extraordinary nuclear occurrence] a nuclear incident, the United States district court in the district where the [extraordinary nuclear occurrence] nuclear incident takes place, or in the case of [an extraordinary nuclear occurrence] a nuclear incident taking place outside the United States, the United States District Court for the District of Columbia, shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. Upon motion of the defendant or of the Commission or the Secretary, as appropriate, any such action pending in any State court (including any such action pending on the date of the enactment of the Price-Anderson Amendments Act of 1987) or United States district court shall be removed or transferred to the United States district court having venue under this subsection. Process of such district court shall be effective throughout the United States. In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28, United States

Code, or within the 30-day period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1987, whichever occurs later.

(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the "management panel") to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

(i) the United States district court having jurisdiction under paragraph (2) determines that the aggregate amount of public liability is likely to exceed the amount of primary financial protection available under subsection b, (or an equivalent amount in the case of a contractor indemnified under subsection d.); or

(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

(C) if shall be the function of each management panel—

(i) to consolidate related or similar claims for hearing or trial;

(ii) to establish priorities for the handling of different classes of cases;

(iii) to assign cases to a particular judge or special master;

(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.

o. **PLAN FOR DISTRIBUTION OF FUNDS.**—Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed the limit of liability under [subsection 170e:] subsection e. (1):

(1) Total payments made by or for all indemnitors as a result of such nuclear incident shall not exceed 15 per centum of such limit of liability without the prior approval of such court;

(2) The court shall not authorize payments in excess of 15 per centum of such limit of liability unless the court determines that such payments are or will be in accordance with a plan of distribution which has been approved by the court or such payments are not likely to prejudice the subsequent adoption and implementation by the court of a plan of distribution pursuant to [subparagraph (3) of this subsection (c)] *paragraph (3); and*

(3) The Commission or the Secretary, as appropriate, shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another plan; and to determine the proportionate share of funds available for each claimant. The Commission or the Secretary, as appropriate, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds.

[(4) The Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection [170 i. of this Act] i. setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.]

p. *REPORTS TO CONGRESS.*—(1) The Commission [shall submit to the Congress by August 1, 1983, a detailed report] *and the Secretary shall submit to the Congress by August 1, 1993, detailed reports concerning the need for continuation of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.*

(2) *Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual report to the Congress setting forth the activities under this section during the preceding calendar year.*

(3) *Not later than February 1, 1988, the Secretary shall submit a report to the Congress identifying and explaining the criminal and civil liabilities of all Department of Energy contractors and other*

persons indemnified who intentionally cause or attempt to cause a nuclear accident at a Department of Energy facility. The Secretary shall include in such report such recommendations as the Secretary determines to be appropriate for punishing such misconduct, enacting new provisions of law, or clarify law in effect on August 1, 1987.

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q. **LIMITATION ON AWARDING OF PRECAUTIONARY EVACUATION COSTS.**—No court may award costs of a precautionary evacuation unless such costs constitute a public liability.

r. **LIMITATION ON LIABILITY OF LESSORS.**—No person under a bona fide lease of any utilization or production facility (or part thereof or undivided interest therein) shall be liable by reason of an interest as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.

s. **LIMITATION ON PUNITIVE DAMAGES.**—No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.

t. **INFLATION ADJUSTMENT.**—(1) The Commission shall adjust the amount of the aggregate standard deferred premium under subsection b. (1) not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1987, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) such date of enactment, in the case of the first adjustment under this subsection; or

(B) the previous adjustment under this subsection.

(2) For purposes of this subsection, the term "Consumer Price Index" means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

(3) The Commission shall make no adjustment in the aggregate standard deferred premium pursuant to paragraph (1) if the aggregate public liability has increased (due to the addition of new licensees subject to the annual deferred premium under subsection b.) an equivalent or greater amount than would result from such inflation adjustment.